

Remarks/Arguments:

Claims 21-37 remain for consideration in this application. Claims 21-27 have been allowed, and are not amended herein. Independent claim 36 is newly added and is identical with allowed claim 21 except that the phrase "through said cut lines" has been deleted; this limitation has been relegated to new dependent claim 37. It is believed that claims 36-37 are allowable for the same reasons as claims 21-27, i.e., the slight broadening represented by claim 36 does not alter the patentability.

Claims 28-35 have also been amended to clearly distinguish the art of record. In particular, independent claims 28 and 32 now recite that the bag has elongated side margins extending between the open and distal ends thereof, and that the cutting blade is oriented with the length thereof "extending transversely between and relative to said side margins." Finally, the claims now call for the cut line forming a handle "after complete processing of the bag."

In the last Action, claims 28-35 were rejected primarily on the basis of the '391 patent in view of the '364 patent. These rejections cannot stand in light of the amendments made herein. Specifically, the '391 patent discloses a blade 50 which forms slits 14 in the end 10 of a bag. Note, however, the blade 50 (and hence the slits 14) are *parallel with* the side margins of the bag 10. There is no teaching or suggestion in the reference of orienting the cutting blade or the resultant slits as now called for in the claims 28 and 32.

The examiner also noted that the '391 patent leaves the portion 10 remaining with connected portions 13. However, this is only a temporary condition which is eliminated when the bag is completely processed. Attention is directed to col. 5, lines 22-37 which explains the reason why part

10 is left temporarily attached to the bag. This is so as to facilitate vacuumization of the bag. Importantly, though after vacuumization and sealing the part 10 is removed. In contrast, claims 28-35 all recite that the cut line and uncut portions of the sealed bag define a handle for carrying a bag "after complete processing of the bag." Here again, there is no suggestion or teaching of this arrangement in the reference.

The secondary '364 patent has a blade 3 which is oriented and operable to cut only one of the plies of the bag. This is appropriate for the purposed of the apparatus and method of the '364 patent, inasmuch as the single ply cut provides a vent opening for air evacuation only. Thereafter, during downstream processing the slit portion of the bag is entirely removed. Note that in the specification the inventor specifically discloses that it is important that the slit not be present in the bag at the termination of the method. Thus, at col. 5, ll. 71-75 and col. 6, ll. 1-3, Bischoff states:

Of course, the electrodes 25 will form the seam 1b' at a level below the slit 4 (Fig. 2) or in the region of this slit *to make sure that the slit disappears when the formation of the bag 1' is completed* (emphasis added).

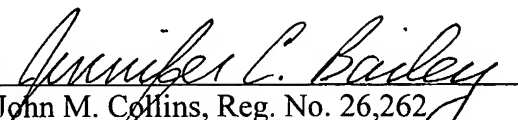
Thus, Bischoff explicitly teaches away from a condition wherein a slit is maintained in a finished bag to serve as a handle. Hence, any attempted modification of this reference in a manner to maintain the slit in the finished bag is entirely at odds with the teaching of the reference. Thus, no proper § 103 rejection can be based on this reference.

It is submitted that any further rejection based upon the art of record must of necessity be predicated upon a hindsight reconstruction of the prior art, using the present disclosure as a guide. This is of course improper. A Notice of Allowance is therefor proper.

Any additional fee which is due in connection with this amendment should be applied against our Deposit Account No. 19-0522.

In view of the foregoing, a Notice of Allowance appears to be in order and such is courteously solicited.

Respectfully submitted,

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